

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE OFFICE  
WDNC Civil Action No. 5:22-cv-88

JASON BAUCOM, )  
Plaintiff, )  
v. )  
NEAREN CONSTRUCTION )  
COMPANY, LLC, )  
Defendant. )  
\_\_\_\_\_  
)

From Lincoln County  
Civil Action No.: 22-CVS-647

**NOTICE OF REMOVAL TO FEDERAL COURT**

**NOW COMES** Defendant Nearen Construction Company, LLC by and through undersigned counsel, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and hereby removes the above-entitled action from the Superior Court of Lincoln County, North Carolina, to the United States District Court for the Western District of North Carolina, and, in support thereof, state as follows:

1. This action is being removed to federal court based on diversity of citizenship between the parties and an amount in controversy greater than \$75,000.00.
2. On May 27, 2022, Plaintiff filed a Complaint in the Superior Court of Lincoln County, North Carolina, styled "*Jason Baucom v. Nearen Construction Company, LLC*." That case was assigned civil action number 22-CVS-647 ("Superior Court Division"). Defendant was served with the summons and Complaint on or about June 3, 2022.
3. This Notice is being filed within thirty (30) days of June 3, 2022, on which date Defendant was served with the summons and Complaint. Plaintiff's Complaint and Summons is

attached collectively hereto as **Exhibit A**.

4. Plaintiff's claims for relief against Defendant in the Superior Court action are for negligence. Plaintiff alleges that Defendant was negligent in that they failed to maintain the job premises, to correct the dangerous condition of the job premises, to inspect the job premises, to cover the vehicle pit of the job premises, among other failures and Plaintiff claims serious and severe injuries including lacerated spleen and liver, fractured ribs, and injury to L5-S1 resulting in spinal fusion surgery, medical expenses, lost wages, loss of use of his body, disfigurement, disability, loss of earning potential, and severe pain and suffering. (Complaint ¶¶ 13-14).

5. The United States District Court for the Western District of North Carolina has original jurisdiction over the Superior Court action pursuant to 28 U.S.C. § 1332(a) and it may be removed by Defendants pursuant to 28 U.S.C. §§ 1441(a) and 1446 for the following reasons:

- a) Per the Complaint, Plaintiff is a resident of Greene County, Tennessee.
- b) At the commencement of this action and at all times relevant hereto, Defendant Nearen Construction Company, LLC is a limited liability corporation organized and existing under the laws of the State of Alabama with a principal place of business in Cullman, Alabama. Its LLC members have complete diversity, including Nearen Holdings, Inc., an Alabama Corporation, Gray, Inc., a Kentucky Corporation, Tristen Morgan, an Alabama resident, and Jacob Wood, an Alabama resident, as evidenced in the Affidavit attached at **Exhibit B**.
- c) The matter in controversy between Plaintiff and Defendants was, at the commencement of this action and all times relevant hereto, one in which complete diversity of citizenship exists.
- d) The amount in controversy between Plaintiff and Defendants, exclusive of

interest and costs, exceeds \$75,000.00.

- e) The United States District Court for the Western District of North Carolina embraces the District in which the aforementioned state court action is now pending.

6. Therefore, the undersigned hereby files this Notice of Removal from the aforesaid Superior Court of Lincoln County, North Carolina, in which it is now pending, to the United States District Court for the Western District of North Carolina.

7. Written notice of the filing of this Notice will be served upon the adverse party in this action as required by law.

8. Notice of Removal has been sent for filing with the Clerk of the Superior Court of Lincoln County, North Carolina, a copy of which is attached hereto as **Exhibit C**.

**WHEREFORE**, the Defendants pray that this action be removed from the Superior Court of Lincoln County, North Carolina, to the United States District Court for the Western District of North Carolina, and request that this Court assume jurisdiction over this action, and proceed to final determination thereof.

This the 1<sup>st</sup> day of July, 2022.

CRANFILL SUMNER LLP

BY: /s/ Samuel H. Poole, Jr.

Samuel H. Poole, Jr. NC Bar #13659  
*Attorney for Defendant*  
Post Office Box 30787  
Charlotte, North Carolina 28230  
Telephone: (704) 332-8300  
Facsimile: (704)332-9994  
Email: [shp@cshlaw.com](mailto:shp@cshlaw.com)

## **CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this day electronically filed the foregoing **Notice of Removal** with the Clerk of Court using the CM/ECF system and served the same on all of the parties to this cause by depositing a copy hereof, postage prepaid, in the United States Mail, addressed as follows:

Rebekah Wolfe  
Oxner + Permar, PLLC  
629 Green Valley Road, Suite 300  
Greensboro, NC 27408  
[Rebekah.wolfe@oxnerpermarlaw.com](mailto:Rebekah.wolfe@oxnerpermarlaw.com)

This the 1<sup>st</sup> day of July, 2022.

CRANFILL SUMNER LLP

BY: /s/ Samuel H. Poole, Jr.  
Samuel H. Poole, Jr. NC Bar #13659  
*Attorney for Defendant*  
Post Office Box 30787  
Charlotte, North Carolina 28230  
Telephone: (704) 332-8300  
Facsimile: (704)332-9994  
Email: [shp@cshlaw.com](mailto:shp@cshlaw.com)